

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 14, 2011

Lyle W. Cayce
Clerk

No. 11-40350
Summary Calendar

SHIRLEY A CHARLES,

Petitioner-Appellant

v.

RICK THALER, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:98-CV-2041

Before HIGGINBOTHAM, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:*

Shirley Ann Charles, Texas prisoner # 692618, was convicted in 1994 of possession of a controlled substance, for which she was sentenced to 40 years in prison. She filed a 28 U.S.C. § 2254 application in 1998, which the district court dismissed as time barred. She now seeks a certificate of appealability (COA) to appeal the denial of two motions to amend her application.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 11-40350

We dismissed a previous appeal by Charles of the denial of the motions to amend for lack of jurisdiction because the ruling was made by a magistrate judge, and there was no consent to proceed before the magistrate judge. *Charles v. Thaler*, No. 10-41009, slip op. at 1-2 (5th Cir. Dec. 13, 2010) (citing *Colburn v. Bunge Towing, Inc.*, 883 F.2d 372, 379 (5th Cir. 1989)). Although the district court has since denied a COA, the district court has not entered a final order addressing the motions to amend. We continue to lack jurisdiction over the magistrate judge's ruling. *See Colburn*, 883 F.2d at 379. Further, we generally have no jurisdiction to entertain any appeal absent a final order, *see Goodman v. Harris Cnty.*, 443 F.3d 464, 467 (5th Cir. 2006), nor may we consider a COA motion absent a final order, *see* 28 U.S.C. § 2253(a), (c).

In light of the foregoing, Charles's request for a COA is DENIED and this appeal is DISMISSED for lack of jurisdiction.